

REMARKS

Preamble

The Applicant notes that the present action does not seem to add any information to the previous office action, issued on February 15, 2005 (hereafter the "previous action"). The Applicant notes that, in response to the previous action, the Applicant provided claim amendments and arguments to emphasize the structural differences that exist between the invention as claimed and the cited references, and in particular U.S. 5,271,531 to Rohr. The Applicant notes that the present action continues no response to the arguments set forth by the Applicant in response to the previous action, and simply restates word for word the previous action. The arguments set forth by the Applicant in response to the previous action are enclosed hereafter for the Examiner's ease of reference.

In view of the above, the Applicant respectfully submits that the position of the Examiner as to how the limitations of amended claim 1 read on Rohr is unclear. The Applicant respectfully reminds the Examiner that the Examiner's statement of the grounds of rejection should be expressed in a manner that is clearly developed so as to be informative to the Applicant (see MPEP 706.7 and 707.07(d)).

Accordingly, the Applicant respectfully requests that in the next Office Action the Examiner provides a clear explanation of how each of the limitation of the claims read on the subject matter identified in Rohr as teaching the respective limitation, in particular in view of the arguments enclosed hereafter or, alternatively, issue a Notice of Allowance.

Rejection under 35 U.S.C. 103

Claims 1-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,271,531 to Rohr et al. The Applicant respectfully disagrees.

Claim 1

In the Action, the Examiner asserts that Rohr discloses a dispensing closure comprising a closure body "having a cylindrical body (Fig. 1) for attachment to the container (Col. 5, line 49), a horizontal covering part (58E, Fig. 20) extending inwardly

from the top of said cylindrical body (Fig. 1), a vertical covering part (88E, Fig. 20) extending upwardly from the inner end of said horizontal covering part (58E), and a top covering part (90E, Fig. 20) extending inwardly from the upper end of the vertical covering part (88E)". The Applicant respectfully disagrees with the Examiner's characterization of this reference. Rohr teaches (e.g. lines 49-50) that reference 90E designates a "retaining ring 90E (FIG. 20)" which is "provided with a channel 93E for conforming to the collar 88E", which is separate from the closure body top wall having parts 58E and 88E, as plainly shown, inter alia, in Fig. 20.

The Applicant submits that nowhere does Rohr suggest that the retaining ring 90E may be made an integral part of the collar 88E, and that making such a change to the structure of Rohr would not be obvious for one skilled in the art, at least because such a change would prevent mounting the peripheral mounting flange 98E of the self-sealing valve 70E on the closure body top wall 58E, as it clearly appears from Fig. 20.

The Applicant therefore submits that the Examiner has failed to show that Rohr discloses or suggests a dispensing closure comprising a "*closure body integrally comprising a cylindrical body for attachment to said container, a horizontal covering part extending inwardly from the top of said cylindrical body, a vertical covering part extending upwardly from the inner end of said horizontal covering part, and a top covering part extending inwardly from the upper end of said vertical covering part*", as recited in claim 1.

Further in the Action, the Examiner asserts that Rohr discloses a dispensing closure comprising an automatic sealing valve "having a static member (170E, Fig. 20) for engagement in the inside space made by said horizontal (58E, Fig. 20) covering part, vertical covering part (88E, Fig. 20) and top covering part (120E) of the closure body (50, Fig. 7), and a dynamic member (192, Fig. 3), wherein the static member (170E, Fig. 20) comprises a horizontal part (top portion of 120E) corresponding to said horizontal covering part (58E, Fig. 20) and a vertical part (172E, Figs. 20, 3 vertical bars) corresponding to said vertical covering part (88E, Fig. 20)".

The Applicant respectfully disagrees, and notes that the alleged "static member" 170E of Rohr is a sleeve of a lid 120E "for engaging the exterior of a cylindrical portion 96E of the valve 70E" (Col. 11, lines 60-61). The Applicant further notes that lid 120E (including sleeve 170E) is mobile with regard to valve 70E and "may be a separate,

removeable component or may be attached to the closure body by a suitable hinge structure" (col.1, lines 65-67), and submits that member 170E can at least for this reason not be deemed to disclose or suggest a "static member" of the valve 70E of Rohr. In view of the above, the Applicant submits that the horizontal part (top portion of 120E) and vertical part (172E) of the mobile sleeve 120E cannot be deemed to disclose portions of a static member of the valve of Rohr. In view of the above, the Applicant submits that the Examiner has failed to show that Rohr discloses or suggests an automatic sealing valve "having a static member for engagement in the inside space made by said horizontal covering part, vertical covering part and top covering part of the closure body", wherein the static member comprises *"a horizontal part corresponding to said horizontal covering part and a vertical part corresponding to said vertical covering part"* as recited in claim 1.

Further in the Action, the Examiner asserts that Rohr discloses "an automatic (98, Fig. 5) sealing part extending inwardly from the flexible lateral part (92, Fig. 3)", wherein "the outer peripheral surface (178, Fig. 3) of the automatic sealing part (98, Fig. 3) slopes outwardly, downwardly. The Applicant respectfully disagrees and submits that in Rohr, reference 98 designates a flange that extends outwardly and not inwardly from member 92, as is clearly shown in Figs. 3 or 5. Also, the Applicant submits that reference 178 is situated inwardly of flange 98, and can therefore not be deemed to disclose an "outer, peripheral surface" of flange 98.

Therefore, the Applicant submits that the Examiner has failed to show that Rohr discloses or suggests an automatic sealing valve having a dynamic member that comprises *"an automatic sealing part extending inwardly from said flexible lateral part and having a central opening-closing slit"*, wherein *"the outer, peripheral surface of said automatic sealing part slopes outwardly, downwardly"*, as recited in claim 1.

In view of the above reasons at least, the Applicant submits that claim 1 is patentable over Rohr.

Claims 2-5

Claims 2-5 depend on claim 1. The Applicant respectfully submits that at least in view of their dependency on claim 1, claims 2-5 are patentable over Rohr.

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Regarding the prior art made of record by the Examiner but not relied upon, the Applicant believes that this art does not render the pending claims unpatentable.

In view of the above, the Applicant submits that the application is now in condition for allowance and respectfully urges the Examiner to pass this case to issue.

The Commissioner is authorized to charge any additional fees that may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

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Susan Papp  
(Name of Person Transmitting)

  
(Signature)

11/29/05  
(Date)

Respectfully submitted,



Alessandro Steinf  
Attorney for Applicants  
Reg. No. 56,448  
LADAS & PARRY  
5670 Wilshire Boulevard, Suite 2100  
Los Angeles, California 90036  
(323) 934-2300 voice  
(323) 934-0202 facsimile  
asteinfl@ladasparry.com